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PATRICK E. DUFFY  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

STEVEN RAY RITCHIE,	)	CV 07-01-M-DWM
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
UNITED STATES OF AMERICA,	)	
SOCIAL SECURITY ADMINISTRATION,	)	
MR. TORALF, LISA CRAWFORD, and	)	
JANE DOE,	)	
	)	
Defendants.	)	
_____	)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on May 14, 2007. Plaintiff Steven Ray Ritchie filed objections and is therefore entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). The parties are familiar with the factual and procedural history so they will be recited only as necessary.

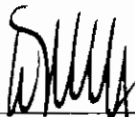
The Court concurs with Judge Lynch's recommendation that Ritchie's complaint be dismissed without prejudice. Despite Ritchie's objections, his complaint must be dismissed due to lack of subject matter jurisdiction and its failure to state a claim.

Similar to the case in *Hines v. Irvington Counseling Center*, 933 F. Supp. 382 (D.N.J. 1996), Ritchie's claims against the United States, the Social Security Administration, and employees therein, cannot stand because subject matter jurisdiction does not exist. See also *Schweiker v. Chilicky*, 487 U.S. 412 (1988).

Ritchie's claim for disability benefits under the Social Security Act also fails. Although he states in his objections that he had an administrative hearing, this does not relieve his duty to exhaust his administrative remedies before filing in federal court. 42 U.S.C. 405(g). He has not demonstrated that the Commissioner of Social Security made a final decision and that he then filed this action within 60 days of that decision. Moreover, as Judge Lynch observed, Ritchie cannot receive Social Security benefits while he is incarcerated and this Court declines to make a prospective ruling on the basis of Ritchie's future release. See *Brue v. Heckler*, 709 F.2d 937 (5th Cir. 1983).

Accordingly, based upon the foregoing I adopt Judge Lynch's Findings and Recommendation (dkt #8) in full: Plaintiff's complaint (dkt #1) is DISMISSED WITHOUT PREJUDICE.

DATED this 31<sup>st</sup> day of May, 2007.

  
Donald W. Molloy, Chief Judge  
United States District Court